

PUBLIC SERVICE COMMISSION OF WISCONSIN

Application of Wisconsin Public Service Corporation for Authority to
Construct and Place in Operation a New Multi-Pollutant Control
Technology System for Unit 3 of the Weston Generating Station,
Marathon County, Wisconsin

6690-CE-197

FINAL DECISION

On May 7, 2012, pursuant to Wis. Stat. § 196.49 and Wis. Admin. Code ch. PSC 112, Wisconsin Public Service Corporation (WPSC) filed an application with the Commission for authority to construct, install, and place in operation a new multi-pollutant control technology known as ReACT, as part of WPSC's Weston Generating Station Unit 3 (Weston 3) in Marathon County, Wisconsin.

WPSC proposes to construct the facilities to meet the requirements of a Consent Decree¹ agreed to between WPSC and the U.S. Environmental Protection Agency (EPA) that resulted from allegations by EPA of Clean Air Act violations at WPSC's Weston and Pulliam Generating Stations. WPSC also proposes to use the new facilities to comply with future air pollution regulations and help maintain a balanced generation portfolio.

WPSC estimates that the cost of construction is \$275 million, excluding allowance for funds used during construction (AFUDC). The AFUDC associated with the project would be \$41 million. WPSC will finance the project using the traditional utility capital structure.

The application is GRANTED, subject to conditions.

¹ "Order Entering Consent Decree," *United States v. Wisconsin Public Service Corp.*, No. 13-C-10 (E.D. Wis. March 7, 2013).

Background

The Commission issued a Notice of Proceeding on June 22, 2012, and a Notice of Prehearing Conference on June 26, 2012. The Commission accepted requests to intervene by Clean Wisconsin (Clean WI), Citizens Utility Board (CUB), Wisconsin Industrial Energy Group (WIEG), Wisconsin Paper Council (WPC), and NorthEast Wisconsin Building and Construction Trades Council. The Commission awarded Clean WI the amount of \$78,855 in intervenor compensation to participate in the docket, plus a supplemental award of not less than \$5,250 and not more than \$10,000 to cover specific expenses incurred in the preparation for and participation in the deposition of its consultant.

The Commission elected to hold a hearing in this docket, although it is not required by law, because of interest in the project by potential intervenors. The hearing was held in Madison on January 10, 2013, on this issue:

Should the Commission grant a Certificate of Authority for the project, pursuant to Wis. Stat. §§ 1.12, 196.025, and 106.49, and Wis. Admin. Code ch. PSC 112?

The Commission provided an opportunity for the public to comment regarding the project via the Commission's web page, fax, or e-mail, and provided an opportunity for the public to testify or submit written comments at the hearing. Three members of the public offered comments at the hearing.

The Commission conducted its hearing as a Class 1 contested case proceeding, pursuant to Wis. Stat. § 227.44. The parties then filed simultaneous initial briefs and reply briefs. The Commission discussed the record on this matter at its open meeting on March 20, 2013.

The parties, for purposes of review under Wis. Stat. §§ 227.47 and 227.53, are listed in Appendix A. Others who appeared are listed in the Commission's files.

Findings of Fact

1. WPSC is an electric public utility engaged in the generation and distribution of electricity in the state of Wisconsin. WPSC's project consists of the installation of the ReACT air emissions reduction system and associated equipment on the existing Weston 3 at an estimated cost of \$275 million, excluding AFUDC.
2. The estimated gross cost of this project exceeds the minimum threshold of utility projects requiring Commission review and approval under Wis. Admin. Code § PSC 112.05.
3. Completion of this project will not substantially impair the efficiency of WPSC's service.
4. Completion of this project will not provide facilities unreasonably in excess of WPSC's probable future requirements.
5. Neither energy conservation, renewable resources, nor other energy priorities listed in Wis. Stat. §§ 1.12 and 196.025 would be cost-effective alternatives to this project.
6. When this project is placed in operation, the addition to WPSC's cost of service associated with the project will be proportionate to the increase in value or available quantity of WPSC's service.
7. No unusual circumstances suggesting the likelihood of significant environmental consequences are associated with the project.
8. No reasonable alternatives to the proposed project exist that could provide adequate service in a more reliable, timely, cost-effective, and environmentally responsible manner.

9. The only practicable location for the proposed project is the existing Weston Generating Station site. A separate brownfield site is not practicable.

10. Authorization of the project is in the general public interest and is required by the public convenience and necessity.

Conclusions of Law

1. WPSC is a public utility as defined in Wis. Stat. § 196.01(5)(a).

2. The Commission has jurisdiction under Wis. Stat. §§ 1.11, 1.12, 196.02, 196.025, and 196.49, and Wis. Admin. Code chs. PSC 4 and 112, to issue a Final Decision authorizing the applicant, as an electric public utility, to construct and place in operation the facilities described in this Final Decision, subject to conditions stated in this Final Decision.

3. The application is a Type III action under Wis. Admin. Code § PSC 4.10(3) and requires neither an environmental impact statement nor an environmental assessment.

Discussion

Consent Decree

The court-approved Consent Decree resolved alleged violations of the Clean Air Act involving WPSC facilities at the Weston and Pulliam Generating Stations. The Consent Decree specifically provides for the installation of ReACT at Weston 3 to control emissions of various air pollutants.

Project Description, Purpose, and Cost

The Weston Generating Station is located in the villages of Kronenwetter and Rothschild, along the Wisconsin River, approximately seven miles south of the city of Wausau in Marathon

County. It includes four coal-fired units, two natural gas/oil-fired combustion turbine generators, and auxiliary systems. Weston 3 is the second largest coal-fired unit, with a capacity of 320 megawatts (MW) using primarily sub-bituminous Powder River Basin coal. It has been in service since 1981. Existing emissions control facilities include: fabric filters installed in 2000 for better particulate control, low nitrogen oxides burners installed in 2009, and an activated carbon injection system installed in late 2009 for mercury emissions control.

ReACT is a multi-pollutant control technology that WPSC intends to install downstream from the existing Weston 3 baghouse. It involves three process stages: (1) adsorption of sulfur dioxide, nitrogen oxides, and mercury onto a moving bed of activated coke pellets as flue gas passes through it; (2) regeneration of the activated coke pellets by thermal desorption of the pollutants; and (3) byproduct recovery, including creation of sulfuric acid from the sulfur-rich gases coming out of the process. The purpose of the ReACT proposal in this proceeding is to reduce sulfur dioxide, nitrogen oxides, and mercury emissions from Weston 3 to comply with current and future state and federal emissions regulations and the Consent Decree. ReACT is also expected to produce byproducts available for beneficial use, including the continuing use of fly ash and the new production of commercial grade sulfuric acid.

ReACT includes the following major elements:

- Adsorption equipment.
- Thermal regeneration equipment.
- Activated coke material handling and preparation facilities.
- Reagent (ammonia) material handling and preparation facilities.
- Sulfuric acid plant.
- Sulfuric acid bulk storage and offloading systems.
- Nitrogen generation system including cryogenic storage.
- Induced draft (ID) fans and ductwork.
- An additional fabric filter installed downstream of the ReACT system.

Major construction for the project would occur south and west of the existing Weston 3 fabric filter in open vacant areas of the property to facilitate construction and reduce relocation or demolition requirements. WPSC's cost estimate is:

Description	Amount
Engineering	\$7,000,000
Civil and Architectural	\$8,000,000
Adsorber Island	\$67,000,000
Regenerator Island	\$52,000,000
Byproduct Processing (Sulfuric Acid Plant)	\$30,000,000
Structural	\$5,000,000
Ammonia Storage and Distribution	\$1,000,000
Balance of Plant	\$15,000,000
Electrical/I&C System	\$15,000,000
Fans and Motors	\$7,000,000
Ductwork	\$14,000,000
Polishing Fabric Filter	\$19,000,000
Auxiliary Transformer	\$6,000,000
Indirect Costs	\$12,000,000
Owners Cost	<u>\$15,000,000</u>
Total Construction Cost	\$273,000,000
Demolition and Removal	<u>\$2,000,000</u>
Total Gross Cost	<u>\$275,000,000</u>

Project Need

WPSC contends that Weston 3 is an important resource in its generation portfolio given that its Purchase Power Agreement (PPA) with Dominion for 335 MW from the Kewaunee Nuclear Power Plant expires at the end of 2013, and further, that the Consent Decree calls for retiring, re-fueling, or re-powering Weston Units 1 and 2 and Pulliam Units 5 and 6 by June 1, 2015. The proposed project will allow continued operation of Weston 3, which will help maintain a balanced portfolio for WPSC and not create an over-reliance on natural gas-fired generation.

WPSC contends that the proposed ReACT project will meet EPA air emission standards consistent with the Consent Decree at a lower cost than other alternatives. It acknowledges that

the installation of ReACT at Weston 3 would be the first large-scale application in the United States, but maintains that ReACT is a proven technology with air emission control results guaranteed by the vendor.

WPSC's Electric Generation Expansion Analysis System (EGEAS)² modeling indicates that this project would be \$165 million³ less costly than replacing Weston 3 first with a PPA and then with a natural gas-fired combustion turbine. WPSC acknowledges that under a worst-case scenario, (for example, with a high carbon tax and low natural gas prices), installing ReACT could cause a maximum \$114 million higher cost than other alternatives, but such conditions, it argues, are not likely. WPSC can control this risk by adjusting the generating output of Weston 3. It can dispatch the unit less if conditions become less favorable to coal-fired generation.

WPSC argues that the risk of not installing ReACT and instead relying on future continuing low natural gas prices or Midwest Independent Transmission System Operator, Inc. (MISO), market purchases would expose its customers to excessive risks. It contends that the future conditions most likely to occur favor the approval of its ReACT project. These conditions, in WPSC's view, include:

- Long-term capacity prices that reflect the anticipated coal retirements and elimination of MISO's current excess capacity reserves.
- Natural gas prices somewhat higher than current prices.
- Coal prices escalating at the rate of inflation.
- Continued carbon control through regulations rather than cap-and-trade or tax structures.

² EGEAS is a complex "modular production-costing, generation-expansion software tool that is used to find least-cost generation system expansion plans by comparing all combinations of multiple generation options to meet forecasted system load." *Clean Wisconsin, Inc. v. PSC*, 2005 WI 93, ¶ 108, n. 33, 282 Wis. 2d 250, 700 N.W.2d 768.

³ The modeling results are calculated as the present value of revenue requirements.

In response to recommendations by intervenors for the Commission's imposition of a "cost cap" as a condition of project approval, WPSC is willing to report to the Commission if costs exceed 5 percent over the approved cost, but argues that a hard cap on construction or operating costs would be arbitrary and premature. WPSC maintains that some intervenors' concerns about the risk of actual construction cost and the ongoing reliability of the supply and reasonableness of the cost of activated coke are not well-founded and can be addressed using the Commission's typical prudence review procedures.

Clean WI disputes the benefits of using ReACT. It argues that the technology, cost, and legal risks of WPSC's proposed ReACT project are too great relative to alternatives. Clean WI argues that installation of ReACT at Weston 3 would be the first and only full-scale application of this technology in the United States. Clean WI also contends that because WPSC does not have a signed contract for the equipment or for the supply and disposal of activated coke required for the ReACT process, the related ratepayer risk is excessive. Clean WI argues that the lack of a signed contract and the lengthy supply chain for activated coke provide no assurance as to the reasonableness of WPSC's projected costs.

Clean WI argues that WPSC's primary driver for the ReACT project, the Consent Decree, does not require the installation of ReACT at Weston 3, but also allows for other, less expensive solutions. Clean WI points out that the EGEAS modeling in the record shows several solutions to WPSC's needs that would be more economic for ratepayers than the proposed ReACT project under certain scenarios, particularly combinations of PPAs and new natural gas-fired units, as well as energy efficiency, demand response, renewable resources, and market purchases. It argues that WPSC's EGEAS modeling was inaccurate, inconsistent, and evolving

throughout the case, making it difficult to determine the viability of assumptions and results.

Overall, Clean WI concludes that WPSC's EGEAS modeling significantly overstates the economic benefits of ReACT, and this project is not the best economic solution. Clean WI concludes that under the state Energy Priorities Laws, Wis. Stat. §§ 1.12(4) and 196.025(1)(ar), the Commission should determine that a natural gas-based solution, which the record reflects is more cost-effective than ReACT under various modeling scenarios Clean WI believes are more realistic, is preferable to the proposed ReACT project.

CUB raises other concerns about ReACT. It contends that the limited use of the ReACT technology worldwide and its lack of commercial use in the United States increase the operational risk and the cost risk of construction and operation at Weston 3. CUB points to WPSC's lack of a contract for the supply of activated coke and the need for disposal of the waste products, sulfuric acid and activated coke pellets. CUB argues that any approval of this project should include conditions protecting ratepayers from increased cost associated with these risks. CUB proposes setting caps on the ongoing costs of activated coke procurement, the costs of sulfuric acid and activated coke pellets disposal, and a 5 percent collar on the construction cost estimate. CUB asserts that without such conditions, the Commission should reject the project, and WPSC should retire Weston 3.

WIEG agrees that WPSC's ratepayers should not be responsible for imprudent construction cost overruns exceeding 5 percent of the approved costs. WIEG and WPC contend that the Commission should require WPSC to notify the Commission of any such cost exceedance and to submit regular reports as to the cost and supply of activated coke, thus providing an opportunity for any interested party to challenge the prudence of any of these costs.

Opinion

The Commission finds that installation of REACT at Weston 3 will allow the continued operation of the plant, avoid an early retirement and replacement of the unit, and will benefit ratepayers more than the other alternatives in the record. Installation of ReACT will substantially reduce emissions of sulfur dioxide, nitrogen oxides, and mercury from Weston 3 in order to comply with current and future emissions regulations as well as the Consent Decree. ReACT will also likely produce byproducts available for beneficial use, including the continuing use of fly ash and the new production of commercial grade sulfuric acid.

The Commission considers the risks of the ReACT system reasonable. The evidence in the record shows that ReACT has performed satisfactorily in commercial use abroad and in testing in the United States. The Consent Decree specifically provides for the use of ReACT at Weston 3 in order to address past alleged violations of the Clean Air Act. Although Clean WI alleges that ReACT may not be adequate to address future air emission standards, it is unlikely that the EPA would require the installation of a system that lacks the ability to meet its own future requirements.

Although Weston 3 would be the first use of ReACT in the United States, this does not indicate that ReACT is too risky a technology for electric generation. Other utilities may not yet have chosen this technology because of uncertainty about future air pollution laws, possible coal unit retirements rather than retrofits, or ReACT's limited application to coal plants that burn low-sulfur coal.

Clean WI raised the concern that WPSC's arrangement for ReACT equipment, materials supply, and service may not be adequate to maintain the long-term operation of ReACT. This

concern arises out of the fact that currently only a single supplier in China produces the activated coke which is critical to the operation of ReACT. Further, WPSC has no contract for the supply of activated coke pellets or an agreed-upon price or procurement arrangement after three years. The price and availability of activated coke, over the long term, will play a significant role in the extent to which ratepayers benefit from this project. The intervenors raised concerns about whether activated coke will be available at a reasonable cost over the life of the controls. The Commission notes that WPSC has addressed these concerns to an extent by ensuring that a 100-day supply of the pellets will be available (on-site at Weston 3) for the first three years of ReACT operation. It also expects to develop other supply sources for these pellets.

Even with the risk of price increases after three years or limited availability of activated coke, ReACT is more cost-effective than other alternatives. To further control these risks, the Commission finds it reasonable to require that WPSC submit to the Commission regular and ongoing reporting of activated coke pellet supplies. If costs of the activated coke supply, the sulfuric acid disposal, and the disposal of mercury-contaminated coke pellets in any previous running year collectively exceed 105 percent of estimated or predicted costs for that year as those costs were predicted by WPSC in the record for this case, it is reasonable to require that WPSC notify the Commission as soon as it becomes aware of the overrun.⁴

Commissioner Nowak dissents on this reporting requirement.

The Commission also finds it reasonable to require that if future changes in air emissions requirements occur that apply or are likely to apply to Weston 3 before the initial operation of

⁴ These costs are derived from information submitted by WPSC in the application and EGEAS modeling and will escalate at the rates used in the EGEAS modeling.

the authorized ReACT system, WPSC must promptly notify the Commission as soon as it becomes aware of the changes.

Energy Priorities Laws

Wisconsin Stat. §§ 1.12 and 196.025 are known as the Energy Priorities Laws. Relevant parts of these statutes provide:

1.12(3) GOALS. (b) *Renewable energy resources.* It is the goal of the state that, to the extent that it is cost-effective and technically feasible, all new installed capacity for electric generation in the state be based on renewable energy resources, including hydroelectric, wood, wind, solar, refuse, agricultural and biomass energy resources.

(4) PRIORITIES. In meeting energy demands, the policy of the state is that, to the extent cost-effective and technically feasible, options be considered based on the following priorities, in the order listed:

- (a) Energy conservation and efficiency.
- (b) Noncombustible renewable energy resources.
- (c) Combustible renewable energy resources.
- (d) Nonrenewable combustible energy resources, in the order listed:
 - 1. Natural gas.
 - 2. Oil or coal with a sulfur content of less than 1%.
 - 3. All other carbon-based fuels.

196.025(1) STATE ENERGY POLICY. (ar) *Consideration of energy priorities.* Except as provided in pars. (b) to (d), to the extent cost-effective, technically feasible and environmentally sound, the commission shall implement the priorities under s. 1.12 (4) in making all energy-related decisions and orders, including strategic energy assessment, rate setting and rule-making orders.

Energy conservation and efficiency are the highest priorities listed in the Energy Priorities Laws, but these statutes only require that an energy priority be considered if it is cost-effective, technically feasible, and environmentally sound. Commission staff conducted an analysis to determine if additional energy conservation and efficiency could alleviate the need for this project.

Neither conservation nor energy efficiency is available in sufficient quantity to be a cost-effective and feasible alternative to the proposed project. Recent experience with

implementing more aggressive energy efficiency programming in the WPSC service territory has resulted in energy savings that have fallen short of previous forecasts of maximum achievable potential. An examination of renewable resource alternatives shows that even additional wind resources, which are the most cost-effective of the noncombustible renewable energy resources, are not cost-effective compared to the proposed project.

WPSC performed EGEAS modeling to assess the economics of the ReACT project. In modeling future conditions in relation to the ReACT project, WPSC's assumptions reflected the anticipated coal retirements and elimination of MISO's current excess capacity reserves; natural gas prices somewhat higher than current prices; coal prices escalating at the rate of inflation; and continued carbon control through regulations rather than cap-and-trade or tax structures. The modeling by WPSC represents a substantial range of possible futures with reasonable assumptions. While Clean WI questioned whether additional modeling should have been done, the record shows that the modeling covered the conditions most likely to occur in the future, and it is sufficient to guide the Commission's decision-making. In all, over 100 EGEAS runs were introduced into the record of this proceeding. Informed by the results of the EGEAS modeling, the Commission finds WPSC's arguments regarding the practical aspects of installing the ReACT system to be persuasive.

The Commission considers the ReACT system to represent the best choice for ratepayers. ReACT offers lower costs than the technological alternatives of a dry flue gas desulfurization and selective catalytic reduction control system. These systems would offer no greater benefits and would be needlessly more expensive. Although natural gas prices are currently low, replacing Weston 3 with a combined-cycle plant in 2017 would change WPSC's portfolio's mix,

making WPSC more heavily dependent on natural gas. Furthermore, relying on MISO market capacity would similarly make it too dependent on natural gas and subject to the risk of rising capacity prices as more coal plants are retired in the near future. WPSC's energy portfolio would lack balance. Weston 3 is an efficient coal-fired unit and replacing it with a combined-cycle plant, or relying on the capacity market, would raise the risk to ratepayers and would result in a risky use of ratepayer dollars.

For these reasons, the Commission finds that WPSC's project meets the requirements of the Energy Priorities Laws.

Compliance with the Wisconsin Environmental Policy Act

The Commission determines that this decision is a Type III action and has performed its environmental review of this project as required by Wis. Admin. Code § PSC 4.10(3). No unusual circumstances suggesting the likelihood of significant environmental effects on the human environment have come to the Commission's attention. Neither an environmental impact statement under Wis. Stat. § 1.11 nor an environmental assessment is required. The Commission also determines that its environmental review of the project complies with the Wisconsin Environmental Policy Act, pursuant to Wis. Stat. § 1.11 and Wis. Admin Code ch. PSC 4.

Brownfields

Wisconsin Stat. § 196.49(4) requires the Commission to determine that brownfields, as defined in Wis. Stat. § 560.13(1)(a), are used to the extent practicable for the construction of electric generating equipment and associated facilities. No party questioned the application of this requirement because the only practicable location for the proposed facilities is on the existing coal-fired plant. A separate brownfield site for the proposed project is not practicable.

Therefore, the Commission's action on the proposed project complies with Wis. Stat. § 196.49(4).

Public Health and Welfare

In *Clean Wisconsin, Inc. v. PSC*, 2005 WI 93, ¶ 35, 282 Wis. 2d 250, 700 N.W.2d 768, the Wisconsin Supreme Court stated that determining whether the issuance of a Certificate of Public Convenience and Necessity is in the public interest is reserved to the Commission as “a matter of public policy and statecraft.” The same is true for the issuance of a Certificate of Authority under Wis. Stat. § 196.49. The Commission's ultimate role is to determine whether a Certificate of Authority will promote the public health and welfare. The Commission finds most compelling the requirements of the Consent Decree, the evidence in the record that installing ReACT is the most cost-effective option for ratepayers, and the Commission's ability to include conditions with this order to mitigate future risks. After weighing these and other elements of the project, including all conditions imposed by this Final Decision, the Commission finds that issuing a Certificate of Authority will promote the public health and welfare and is in the public interest.

Certificate of Authority

The Commission authorizes WPSC to install the ReACT system and associated equipment at Weston 3 as described in its application and as modified by this Final Decision, at an estimated total cost of \$275 million, excluding AFUDC, subject to conditions stated in this Final Decision.

Order

1. WPSC may install the ReACT system and associated equipment on the existing Weston 3, subject to the conditions stated in this Final Decision.

2. The estimated cost of the approved project is \$275 million, excluding AFUDC. Should the scope, design, or location of the project change significantly, or if it is discovered or identified that the project cost, including *force majeure* costs, may exceed the estimated cost by more than 5 percent, WPSC shall promptly notify the Commission as soon as it becomes aware of the possible changes or cost increase.

3. WPSC shall report to the Commission the date that construction commences and the date that the facilities are placed in service.

4. Until the facilities are fully operational, WPSC shall submit quarterly progress reports to the Commission that summarize the status of construction, the anticipated in-service date, and the overall percent of physical completion. WPSC shall include the date when construction commences in its report for that three-month period. Each quarterly report shall include the actual project costs segregated by line item as reflected in the cost breakdown listed in this Final Decision. The first report is due for the quarter ending September 30, 2013, and each report shall be filed within 30 days after the end of the quarter.

5. WPSC shall submit to the Commission the final actual costs, segregated by major accounts, within one year after the in-service date. For those accounts or categories where actual costs deviate significantly from that authorized, WPSC shall itemize and explain the reasons for such deviations in the final cost report.

6. WPSC shall submit to the Commission regular and ongoing reporting of activated coke pellet supplies.

7. If costs of the activated coke supply, the sulfuric acid disposal, and the disposal of mercury-contaminated coke pellets in any previous running year collectively exceed 105 percent of estimated or predicted costs for that year as those costs were predicted by WPSC in the record for this case, WPSC shall notify the Commission as soon as it becomes aware of the overrun.

8. If future changes in air emissions requirements occur that apply or are likely to apply to Weston 3, and which occur before the initial operation of the authorized ReACT system, WPSC shall promptly notify the Commission as soon as it becomes aware of the changes.

9. This authorization is valid only if construction commences no later than one year after the date of service of this Final Decision.

10. This Final Decision is effective the day after the date of service.

11. Jurisdiction is retained by the Commission.

Dissent and Concurrence

Commissioner Nowak dissents in part and concurs in part.

Dated at Madison, Wisconsin, this 12th day of April, 2013.

By the Commission:



Sandra J. Paske
Secretary to the Commission

SJP:KCR;jlt:DL:00698304

See attached Notice of Rights

PUBLIC SERVICE COMMISSION OF WISCONSIN
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**NOTICE OF RIGHTS FOR REHEARING OR JUDICIAL REVIEW, THE
TIMES ALLOWED FOR EACH, AND THE IDENTIFICATION OF THE
PARTY TO BE NAMED AS RESPONDENT**

The following notice is served on you as part of the Commission's written decision. This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

PETITION FOR REHEARING

If this decision is an order following a contested case proceeding as defined in Wis. Stat. § 227.01(3), a person aggrieved by the decision has a right to petition the Commission for rehearing within 20 days of service of this decision, as provided in Wis. Stat. § 227.49. The service date is shown on the first page. If there is no date on the first page, the date of service is shown immediately above the signature line. The petition for rehearing must be filed with the Public Service Commission of Wisconsin and served on the parties. An appeal of this decision may also be taken directly to circuit court through the filing of a petition for judicial review. It is not necessary to first petition for rehearing.

PETITION FOR JUDICIAL REVIEW

A person aggrieved by this decision has a right to petition for judicial review as provided in Wis. Stat. § 227.53. In a contested case, the petition must be filed in circuit court and served upon the Public Service Commission of Wisconsin within 30 days of service of this decision if there has been no petition for rehearing. If a timely petition for rehearing has been filed, the petition for judicial review must be filed within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition of the petition for rehearing by operation of law pursuant to Wis. Stat. § 227.49(5), whichever is sooner. If an *untimely* petition for rehearing is filed, the 30-day period to petition for judicial review commences the date the Commission mailed its original decision.⁵ The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

If this decision is an order denying rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not permitted.

Revised: December 17, 2008

⁵ See *State v. Currier*, 2006 WI App 12, 288 Wis. 2d 693, 709 N.W.2d 520.

APPENDIX A

PUBLIC SERVICE COMMISSION OF WISCONSIN

(Not a party, but must be served)

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